

Rec. Mar. 11, 1933

384

# ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 384

(By Mr. Hyre)

Passed March 9, 1933

In Effect from Passage

Originated in the *House* Takes effect *from* Passage  
*John S. Hall* Clerk of the House of Delegates  
*John S. Hall* Clerk.

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*James L. Smith* Chairman House Committee  
*James A. McHenry* Chairman Senate Committee.

## ENROLLED BILL

(H. B. No. 384)

[Passed March 9, 1933; in effect from passage.]

AN ACT to incorporate the city of Buckhannon, in the county of Upshur, to fix its corporate limits, to divide the same into wards, and to describe and define the powers, rights and duties of said city of Buckhannon, and of the officers and citizens of same; to repeal chapter fifteen of the acts of the legislature of West Virginia, one thousand nine hundred nineteen (municipal charters), and all acts amendatory thereof; and to repeal all other acts or parts of acts inconsistent or in conflict herewith, said bill to be known as the "Charter of the City of Buckhannon."

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of so much of the county  
 2 of Upshur, in the State of West Virginia, as lies within the  
 3 boundary prescribed by section two of this act, be and they  
 4 are hereby constituted to remain and continue a municipal

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5 corporation by the name of "the city of Buckhannon," by  
6 which name they shall have perpetual succession and a com-  
7 mon seal, and by which name they may sue and be sued, plead  
8 and be impleaded, contract and be contracted with, answer  
9 and be answered unto, and may purchase, take, receive, hold  
10 and use goods and chattels, lands and tenements, and choses in  
11 action, goods or any interest, right or estate thereto, for the  
12 proper use of said city, and the same may grant, sell, convey,  
13 and assign, let, pledge, mortgage, charge and encumber, in  
14 any case and in any manner in which it would be lawful for a  
15 private individual so to do, except where such power may be  
16 limited by law, and generally shall have all the rights, fran-  
17 chises, capacities and powers conferred herein, and by the  
18 laws of this state upon municipal corporations not inconsistent  
19 with the provisions of this act.

Sec. 2. The corporate limits and boundaries of the city of  
2 Buckhannon shall be as follows: Beginning at a stake, where  
3 a white oak formerly stood in a field of P. F. Pinnell's heirs,  
4 and running thence south twenty-six degrees, ten minutes  
5 east, four thousand one hundred ninety-three feet to a white  
6 oak, corner to lands of Montreville Regers heirs; thence south

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7 thirty-seven degrees, fifty minutes east, one thousand six hun-  
8 dred sixty-four feet to a stake on the east side of Kanawha  
9 street extended, the southwest corner to the Buckhannon Im-  
10 provement Company's addition to the town of Buckhannon;  
11 thence with the south line of the same south sixty-seven degrees  
12 east one thousand one hundred forty-nine feet to the west  
13 bank of the Buckhannon river, thence down said river north  
14 thirty-five degrees east seven hundred eighty-two feet to the  
15 corporation line of South Buckhannon; thence south fifty-six  
16 degrees fifty-four minutes east one hundred eighty-nine feet,  
17 crossing the river to a stake thirty feet east of the bank there-  
18 of; thence with the lines of the South Buckhannon Corpora-  
19 tion, as surveyed in one thousand nine hundred eleven, north  
20 thirty-six and one-half degrees east four hundred four feet to  
21 a stake on the bank of the river; north fifty-three and one-half  
22 degrees east, four hundred twenty-nine feet to a stake, north  
23 forty-eight and one-half degrees east three hundred and  
24 ninety-six feet to a stake, one hundred fifty feet from the  
25 forks of the road leading to Little Sand run; north twenty-  
26 seven and one-half degrees east, eight hundred ninety-one feet  
27 to a stake in the road; north thirty-three degrees east three

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28 hundred sixty-three feet to a stake; north twenty-five and one-  
29 half degrees east four hundred ninety-five feet to a stake;  
30 north sixteen degrees west five hundred ninety-four feet to a  
31 stake; north sixty-one and one-half degrees east one hundred  
32 forty-eight and one-half feet to a stake; north fifty and one-  
33 half degrees east three hundred thirty feet to a stake; north  
34 thirty-nine degrees east two hundred sixty-four feet to a stake;  
35 north thirty-nine degrees east two hundred sixty-four feet  
36 to a stake on the east bank of the river; thence north thirty-  
37 two and one-half degrees west two hundred sixty-four feet,  
38 crossing the river to a stake on the west bank thereof; thence  
39 down the river ten and one-half degrees east one thousand  
40 four hundred nineteen feet to a stake; thence north seventeen  
41 degrees west one hundred sixty-five feet to a stake; thence  
42 north sixty-seven and three-fourths degrees west one thousand  
43 one hundred seventy-five and one-half feet to a stake on the  
44 west bank of the river, a corner to the corporations of Buck-  
45 hannon and South Buckhannon, where a sycamore was for-  
46 merly called for; thence with the lines of the corporation of  
47 the town of Buckhannon, as surveyed in the year one thou-  
48 sand eight hundred eighty-three, and by the bearings of that

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49 date east nine hundred fifty-seven feet, crossing the river  
50 to a sycamore at the forks of the Staunton and Parkersburg  
51 turnpike and the old Crites mill road, thence north thirty-  
52 seven and one-half degrees east seven hundred twenty-  
53 six feet to a spruce on the bank of the river; thence,  
54 by December, one thousand nine hundred eighteen, magnetic  
55 bearing north sixty-nine and one-half degrees, west five hun-  
56 dred eight feet, crossing the river to a stake, being the south-  
57 east corner to the Hudkins addition to the town of Buckhannon  
58 as surveyed and platted by W. G. L. Totten, said stake being  
59 in the line extended with the east side of Seventh street; thence  
60 with Seventh street to Morton avenue; thence with the south  
61 side of Morton avenue north seventy-one degrees west two  
62 thousand eight hundred twenty-eight feet to the southwest  
63 corner of Morton avenue and First street; thence north eighty-  
64 nine and one-half degrees west with the south side of the  
65 county road four hundred ninety-one feet; thence with the  
66 south side of said road as follows: South seventy-four degrees  
67 twenty-five minutes west six hundred seventy-six feet; south  
68 forty-two and one-half degrees west three hundred two feet,  
69 south forty-eight and one-fourth degrees west two hundred

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70 thirty-three feet; south seventy-five and one-fourth degrees  
71 west eighty feet; north seventy-five and three-fourths degrees  
72 west, five hundred fifty-eight feet to the east side of Buck-  
73 hanon and Clarksburg turnpike; thence with the south side  
74 of the same south zero degree fifteen minutes west eight hun-  
75 dred thirty feet to the south side of Finks run at the bridge;  
76 thence in the general direction of Finks run, south seventy-two  
77 and one-fourth degrees west eight hundred forty-one feet to  
78 the northeast corner of the railroad bridge across Finks run;  
79 thence south fourteen and three-fourths degrees west two thou-  
80 sand two hundred feet to the beginning.

*Ward Boundaries*

Sec. 3. The said city of Buckhannon shall consist of five  
wards, which shall be bounded as follows:

3 *First Ward*—All that portion of the city bounded on the  
4 north by the Buckhannon river and Finks run; on the east by  
5 the center line of Florida street to Madison street; on the south  
6 by the center line of Madison street to Kanawha street; thence  
7 center line South Kanawha street to Lincoln street; thence  
8 center line of Lincoln street to corporation line; on the west  
9 by the corporation line.

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Deputy A. Byrnes

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10 *Second Ward*—All that portion of the city bounded on the  
11 north and east by the center line of South Florida street to  
12 College avenue; on the east and south by the center line of  
13 College avenue to the corporation line; on the west by the  
14 corporation line to Lincoln street; thence with the center line  
15 of Lincoln street to Kanawha street; thence with the center line  
16 of Kanawha street to Madison street; thence with the center  
17 line of Madison street to South Florida street to the be-  
18 ginning.

19 *Third Ward*—All that portion of the city bounded on the  
20 north and east by the Buckhannon river, on the south and west  
21 with the center line of Florida street, extending from Buck-  
22 hannon river bridge at Star Mill to swinging bridge crossing  
23 from Buckhannon to the village of Vicksburg.

24 *Fourth Ward*—All that portion of the city bounded on the  
25 north by the center line of South Florida street; on the east  
26 by the Buckhannon river; on the south and west by the city  
27 boundary line to the north side of College avenue extended;  
28 from this point with the north side of College avenue to the  
29 beginning.

30 *Fifth Ward*—All the remainder of the city, including that



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31 portion known as the Island and that portion known as North  
32 Buckhannon.

33 *Council May Change Boundaries of Wards*

Sec. 4. At any time after the passage of this act the city  
2 council may by ordinance modify and change the boundaries  
3 and increase or decrease the number of wards.

4 *Powers of Council*

Sec. 5. The council of said city shall have and are hereby  
2 granted power to have the said city surveyed; to open, vacate,  
2-a broaden, change grade of, grade and pave streets, sidewalks  
3 and gutters for public use, and to alter, improve, embellish,  
4 ornament and light the same, and to construct and maintain  
5 public sewers and laterals, and shall in all cases, except as to  
6 lighting, have power and authority to assess upon and collect  
7 from the property benefited thereby all, or such part of the  
8 expense thereof as shall be fixed by ordinance; to have con-  
9 trol of all streets, avenues, roads, alleys and grounds for pub-  
10 lic use in said city, and to regulate the use thereof and driving  
11 thereon, and to have the same kept in good order and free  
12 from obstruction, pollution or litter on or over them, but the  
13 said county shall be chargeable with the construction and

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14 maintenance of all bridges within the said city; to change the  
15 name of any street, avenue or road within said city and to  
16 cause the numbering of houses on any street, avenue or road  
17 therein; to regulate and determine the width of streets, side-  
18 walks, roads and alleys, to order and direct the curbing and  
19 paving of sidewalks and footways for public use in said city,  
20 to be done and kept clean and in good order by the owners  
21 of adjacent property; to restrain and punish the abuse of  
22 animals; to restrain and punish vargrants, mendicants, beggars,  
23 tramps, prostitutes, drunken or disorderly persons within the  
24 city and provide for their arrest and manner of punishment;  
25 to prohibit by ordinance the bringing into the city of any  
26 person or animal afflicted with contagious or infectious disease,  
27 and to punish any violator of said ordinance who knows or has  
28 reason to believe such person or animal to be so afflicted; to  
29 control and suppress disorderly houses of prostitution or ill  
30 fame, houses of assignation, and gaming houses or any part  
31 thereof, and to punish gaming; to prohibit within said city or  
32 within three miles thereof slaughter houses, soap or glue  
33 factories and houses of like kind; to control the contruction  
34 and repair of all houses, basements, walls, culverts and sew-

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35 ers, and to prescribe and enforce all reasonable regulations  
36 affecting the construction of the same, and to require permits  
37 to be obtained for such buildings and structures, and plans  
38 and specifications thereof to be first submitted to the city  
39 council; to control the opening and construction of ditches,  
40 drains, sewers, cesspools and gutters, and to deepen, widen  
41 and clear the same of stagnant water or filth, and to prevent  
42 obstructions therein, and to determine at whose expense the  
43 same shall be done; and to build and maintain fire station  
44 houses, police stations and police courts, and to regulate the  
45 management thereof; to acquire, lay off, appropriate and con-  
46 trol public grounds, squares and parks, either within or with-  
47 out the city limits as herein defined; to purchase, sell, lease  
48 or contract for and take care of all public buildings, and struc-  
49 tures and real estate, including libraries and hospitals, deemed  
50 proper for use of such city; and, for the protection of the pub-  
51 lic, to cause the removal of unsafe walls or buildings, and the  
52 filling of excavations; to prevent injury or annoyance to the  
53 business of individuals from anything dangerous, offensive or  
54 unwholesome; to define, prohibit, abate, suppress and prevent  
55 all things detrimental to the health, morals, comfort, safety,

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Henry

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56 convenience and welfare of the inhabitants of the city, and  
57 all nuisances and causes thereof, and to that end and there-  
58 about to summon witnesses and hear testimony; to declare and  
59 enforce quarantine against the introduction of any contagious  
60 or infectious disease prevailing in any other state, county or  
61 place, and of any and all persons and things likely to spread  
62 such contagion or infection; to regulate the keeping of gunpow-  
63 der and other combustible or dangerous articles; to regulate, re-  
64 strain or prohibit the use of firecrackers, or other explosives, or  
65 fireworks, and all noises or performances which may be danger-  
66 ous, annoying to persons or tend to frighten horses or other  
67 animals; to provide and maintain proper places for the burial  
68 of the dead and to regulate interments therein upon such  
69 terms and conditions as to price and otherwise as may be de-  
70 termined; to provide for shade and ornamental trees and the  
71 protection of the same; to provide for the making of division  
72 fences; to make proper regulation for guarding against danger  
73 or damage from fire; to provide for the poor of the city,  
74 and to that end may contract with the proper authorities of  
75 Upshur county to keep and maintain the poor, or any num-  
76 ber thereof, upon terms to be agreed upon; but, until the

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77 said city shall assume the maintenance and support of such  
78 poor by proper ordinance or resolution of the council, the  
79 poor of said city are to be maintained and supported by the said  
80 county of Upshur under the general provision of law relating  
81 thereto; to make suitable and proper regulations in regard to  
82 the use of the streets and alleys for street cars, railroad engines  
83 and cars, and to regulate the running and operation of the  
84 same so as to prevent injury, inconvenience or annoyance to  
85 the public; to prohibit prize fighting, cock and dog fighting;  
86 to license, tax, regulate or prohibit theaters, circuses, the ex-  
87 hibition of showmen and shows of any kind and the exhibition  
88 of natural or artificial curiosities, caravans, menageries, pic-  
89 tures, motion pictures and musical exhibitions and perform-  
90 ances; to regulate the construction, height and material used in  
91 all buildings, and the maintenance and occupancy thereof; to  
92 regulate and control the use, for whatever purpose, of the  
93 streets and other public places; to create, establish, abolish and  
94 organize employments and fix the compensation of all em-  
95 ployees; to organize and maintain fire companies and to pro-  
96 vide necessary apparatus, engines and implements for the  
97 same; to regulate and control the kind and manner of plumb-

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98 ing and electric wiring for the protection of the health and  
99 safety of said city; to levy taxes on persons, property and  
100 licenses; to license and tax dogs and other animals, and reg-  
101 ulate, restrain and prohibit them and all other animals and  
102 fowls from running at large; to assess, levy and collect taxes  
103 for general and special purposes upon all the subjects or ob-  
104 jects which the city may lawfully tax; to levy and collect as-  
105 sessments for local improvements; to borrow money on the  
106 faith and credit of the city by the issue and sale of bonds in the  
107 manner prescribed by law; to appropriate the money of the  
108 city for all lawful purposes; to create, provide for, regulate  
109 and maintain all things in the nature of public works and im-  
110 provements; to adopt rules for the transaction of business and  
111 for its own regulation and government; to promote the general  
112 welfare of the city and to protect the persons and property of  
113 citizens therein; to regulate and provide for the weighing of  
114 produce and other articles sold in said city and to regulate the  
115 transportation thereof and other things through the streets;  
116 to have the sole and exclusive right to grant, refuse or revoke  
117 any and all licenses for the carrying on of any business within  
118 said city on which the state exacts a license tax; to establish

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119 and regulate markets and to prescribe the time for holding the  
120 same, and what shall be sold in such markets and to acquire  
121 and hold property for market purposes; to regulate the sale  
122 and distribution of foodstuffs; to regulate or prohibit the plac-  
123 ing of signs, billboards, posters and advertisements in, on or  
124 over the streets, alleys, sidewalks and public grounds of said  
125 city; to preserve and protect the peace, order, safety and health  
126 of the city and its inhabitants, including the right to regulate  
127 the sale and use of cocaine, morphine, opium, and poisonous  
128 drugs; to make, enforce and provide local police, sanitary and  
129 other regulations, and fully exercise all lawful police powers;  
130 to appoint and fix the place of holding city elections; to erect,  
131 own, lease, authorize or prohibit the erection of gas works,  
132 telephone plant or electric light works in or near the city, and  
133 to operate the same and sell the products or services thereof,  
134 and to do any and all things necessary and incidental to the  
135 conduct of such business; to provide for the purity of milk,  
136 meats and provisions offered for sale in said city, and to that  
137 end provide for a system of inspecting the same and making  
138 and enforcing rules for the regulation of their sale, and to  
139 prohibit the sale of any unwholesome or tainted milk, meats,

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140 fish, fruits, vegetables, or the sale of milk containing water or  
141 other things not constituting a part of pure milk; to provide  
142 for inspecting dairies and slaughter houses, whether in or out-  
143 side of the city, where the milk and meat therefrom are offered  
144 for sale within said city; to prescribe and enforce ordinances  
145 and rules for the purpose of protecting the health, property,  
146 lives, decency, morality and good order of the city and its in-  
147 habitants, and to protect places of divine worship in and about  
148 the premises where held, and to punish violations of said  
149 ordinances even if the offense under and against the same shall  
150 constitute offenses under the law of the State of West Virginia  
151 or the common law; to provide for the employment and safe-  
152 keeping of persons who may be committed in default of the  
153 payment of fines, penalties or costs under this act, who are  
154 otherwise unable or fail to discharge the same, by putting them  
155 to work for the benefit of the city upon the streets or other  
156 places provided by said city, and use such means to prevent  
157 their escape while at work as the council may deem expedient;  
158 and the council may fix a reasonable rate per day as wages  
159 to be allowed such person until the fine and costs against him  
160 are thereby discharged; to compel the attendance at public



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161 meetings of the members of the council; to prevent any person,  
162 association or corporation from polluting in any manner any  
163 pond, lake, basin, reservoir, stream, spring, creeks or other  
164 body of water from which the city shall take water to be used  
165 for domestic purposes by the inhabitants thereof, or from  
166 casting into any such body of water, or on the bank thereof or  
167 in such proximity thereto that the same may enter therein, any  
168 filthy, unwholesome, or obnoxious substance, object, or liquid,  
169 or anything whatsoever injurious to the health of the people  
170 of the city, or which impairs its value for the ordinary pur-  
171 poses of life, or which shall render the water offensive to taste  
172 or smell, or that is naturally calculated to excite disgust in  
173 those using such water for the ordinary purposes of life; to  
174 exercise all other powers that now are or hereafter may be  
175 granted to municipalities by the constitution or laws of the  
176 State of West Virginia; and all such powers, whether expressed  
177 or implied, shall be exercised and enforced in the manner pre-  
178 scribed by this charter, or when not prescribed herein, in such  
179 manner as shall be provided by the ordinances or resolutions of  
180 the council.

181 The city of Buckhannon shall have power and authority,

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*James D. Hyman*

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182 within and without its territorial limits, to construct, condemn  
183 and make additions thereto, maintain and conduct and operate  
184 water works, light plants, power plants, heating plants, and in-  
185 cinerating plants, and do everything required therefor, for the  
186 use of the said city and the inhabitants thereof, and may en-  
187 force such purchases by proceeding at law or in equity by the  
188 right of eminent domain, and by condemnation; but the moneys  
189 necessary for the purchase and construction of such works,  
190 plants, or system of works and plants shall be derived from the  
191 issuance and sale of the bonds of said city approved by three-  
192 fifths of the qualified voters of the said city voting for and  
193 against the same, at any special election called and held for the  
194 purpose. The ordinance of the said city submitting such bond  
195 issue to a vote shall specify the purpose and amount for which  
196 said bonds are to be issued and sold, said amount being limited  
197 only by the constitution and laws of the State of West Vir-  
198 ginia, and the other provisions of this charter: *Provided, That*  
199 the power to condemn may be exercised for the purpose of  
200 acquiring such utilities now existing and operating under  
201 franchises granted by the said city, the town of Buckhannon,  
202 or the town of South Buckhannon, under the terms of the

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203 franchises, or under the rights of eminent domain, at the elec-  
204 tion of the city: *Provided further*, That such utilities now ex-  
205 isting shall not be acquired or purchased by said city except  
206 on ordinance of the said city submitted at a special election and  
207 approved by three-fifths of the qualified voters of the said city  
208 voting for and against the same, authorizing such purchase and  
209 the issuance and sale of bonds in payment of same, and such  
210 ordinance shall specify in detail the property and rights to be  
211 acquired and the price to be paid for the same.

212 The enumeration of particular powers of this charter shall  
213 not be held or deemed to be exclusive, but in addition to the  
214 powers enumerated herein, implied thereby, or appropriate to  
215 the exercise thereof, the council shall have and exercise all  
216 other powers, which under the constitution and laws of the State  
217 of West Virginia it would be competent for this charter spe-  
218 cifically to enumerate.

219 The council shall provide for the enforcement of all ordi-  
220 nances by reasonable and proper penalties, consisting of fines  
221 or imprisonment, or fines and imprisonment, with suitable rules  
222 and regulations for the enforcement of such penalties. For all  
223 such purposes the jurisdiction of the city shall, when necessary,

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224 extend for one mile beyond the corporate limits of said city.  
225 In order to prevent the pollution of the waters from which the  
226 people of the city take water for domestic uses, the jurisdiction  
227 of the city shall be coextensive with the location and extent  
228 of the waters from which such supply is taken, and each day  
229 such act of pollution of the water continues may be deemed a  
230 separate offense: *Provided, however,* That in no event shall im-  
231 prisonment for a longer period than sixty days or a greater  
232 fine than one hundred dollars, or both, be imposed for any one  
233 offense.

234

*Oath of Officers and Bonds.*

Sec. 6. The mayor, recorder and councilmen, and all other  
2 officers provided for in this act, shall each, before entering upon  
3 the duties of their offices, and within fifteen days after receiving  
4 their certificates of election or appointment, take the oath or  
5 affirmation that they will truly, faithfully, and impartially, to  
6 the best of their ability, discharge the duties of their respective  
7 offices so long as they continue therein. Said oath or affirma-  
8 tion may be taken before any person authorized to administer  
9 oaths under the laws in force at the time the same is taken,  
10 or before the mayor or recorder of said city; but in any event

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11 a copy of said oath of said officer shall be filed with the recorder,  
12 and copy filed with county clerk: *Provided further*, That be-  
13 fore entering upon their duties, the mayor and recorder shall be  
14 required to give bond in the penalty of one thousand dollars  
15 each: *And provided further*, That all regular police officers of  
16 the city of Buckhannon, except extra policemen serving less  
17 than one month at a time, appointed under the provisions of  
18 this act, shall be required to give bond in the amount of three  
19 thousand five hundred dollars, payable to the city of Buckhan-  
20 non, which shall be approved by the council and when approved  
21 and accepted shall be recorded by the city recorder in the minute  
22 record book, kept by him at his office, and shall be open to public  
23 inspection. The city recorder shall be the custodian of all  
24 bonds. The said bonds shall in all respects comply with the state  
25 laws relating to the bonds of public officials.

26

*Compensation Elective Officers.*

Sec. 7. The compensation of the mayor, recorder and council-  
2 men shall be fixed by the council at their first meeting held in  
3 the fiscal year: *Provided, however*, That the salary of the  
4 mayor shall not exceed the sum of six hundred dollars per year,  
5 the salary of the recorder shall not exceed three hundred sixty

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6 dollars per year, and the salary of councilmen shall not exceed  
7 one hundred eighty dollars per year. The salary of all appoin-  
8 tive officers shall be fixed by the council when appointments are  
9 made.

10 *Legislative Department: Duties.*

Sec. 8. The legislative powers of the city are hereby vested in  
2 a council composed of mayor, recorder and five councilmen.  
3 Said council shall have power to enact all ordinances for the  
4 city, not in conflict with this charter or the constitution and  
5 laws of this state, the intention being that the said council shall  
6 be vested with the power and charged with the duty of enacting  
7 and adopting all laws and ordinances not inconsistent with this  
8 charter, the statutes of this state and constitution thereof,  
9 touching every subject and matter of local or general application  
10 within the boundaries of the city or within one mile thereof;  
11 within the purview of the local government instituted by this  
12 charter and within the powers granted and conferred by the con-  
13 stitution and laws of the State of West Virginia.

14 *Vacancy: How Filled.*

Sec. 9. Whenever a vacancy from any cause shall occur in the  
2 office of mayor, the recorder shall become the mayor of said

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**Chairman House Committee.**

7

### Rules of Procedure.

1

*Public Meetings and Special Meetings of Council.*

Sec. 11. The regular meetings of the council shall be publicly held in the council chamber on the first and third Thursdays of

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3 each month, or at other designated times fixed by ordinance or  
4 resolution and at such hour as shall be designated by ordinance  
5 or resolution of the council. Adjourned meetings may be held,  
6 special meetings called by the mayor or a majority of the council,  
7 on such date, or at such time as they may deem necessary or  
8 circumstances demand, by a verbal or written notice served upon  
9 the mayor, recorder or members of the council, stating the pur-  
10 pose of the meeting. Executive sessions may be held at the dis-  
11 cretion of the council.

12

*Quorum.*

Sec. 12. Four members of the council shall constitute a  
2 quorum and the affirmative vote of a majority of the members  
3 present, shall be necessary to adopt any motion, resolution or  
4 ordinance, or pass any measure, unless a greater number is  
5 provided for by this charter. Upon every motion involving the  
6 expenditure of money and for the letting of any public contract,  
7 and on all ordinances, the ayes and nays shall be taken and  
8 recorded, and every ordinance shall be reduced to writing and  
9 read before a vote is taken thereon. The chairman of the council  
10 shall have a vote on all questions, but shall have no veto power.  
11 Every resolution or ordinance passed by the council shall be



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12 signed by the mayor or acting mayor, attested by the recorder,  
13 or acting recorder, and recorded before the same shall be in  
14 force.

15 *Minutes: Ayes and Noes.*

Sec. 13. At each regular meeting of the council the proceed-  
2 ings of the last regular meeting and subsequent special meetings  
3 shall be read, and corrected if erroneous, and signed by the  
4 mayor and recorder. Upon the call of any member the ayes and  
5 noes on any question shall be taken and recorded by the recorder  
6 in the minute book. The call of members for such vote shall be  
7 made alphabetically.

8 Every resolution or ordinance passed by the council shall be  
9 signed by the mayor, attested by the recorder, and recorded  
10 before the same shall be in force.

11 *Presiding Officer.*

Sec. 14. The mayor, or in his absence the recorder, shall pre-  
2 side at the meetings of said council, or in their absence the coun-  
3 cil shall elect a chairman.

4 *Powers to Adopt Present Ordinances.*

Sec. 15. All ordinances, by-laws, resolutions and rules of the  
2 city of Buckhannon in force on the day preceding the passage of

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3 this act, which are not inconsistent therewith, shall be and re-  
4 main in full force over the whole boundary of said city of  
5 Buckhannon, as established by this act, until the same are  
6 amended or repealed by the council of said city, and the officers  
7 elected at the last election in the city of Buckhannon, shall re-  
8 main in office until their successors under this act are elected and  
9 qualified as hereinbefore provided, and after this act takes effect,  
10 shall have jurisdiction over all the territory embraced in the  
11 boundaries specified in this act, and shall perform all the duties  
12 of such respective officers under this act; but nothing in this  
13 act shall be construed or held to in any way affect or impair  
14 any of the bonds, obligations or indebtedness of the city of  
15 Buckhannon, as though the same had been created under this  
16 charter.

*Ordinances.*

Sec. 16. Every ordinance shall embrace but one subject, which  
2 shall be clearly expressed in the title. Provided that its subject  
3 matter be embraced in any ordinance contrary to the provisions  
4 of this section, such ordinance shall be void only as to so much  
5 of the ordinance as may not be clearly expressed in the title

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Anna D. Hyatt

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6 thereof; such subject may be omitted when ordinances are published in book form.

8 All ordinances passed by the council, except emergency ordinances, shall take effect and become valid and binding at the expiration of thirty days from the date of their passage, unless otherwise provided in this charter.

12 The council by unanimous vote, may pass an emergency ordinance when the public peace, public health or public safety shall in the judgment of the council demand it. Every emergency ordinance must as a part of the title, contain the words: "And declaring an emergency," and every such ordinance shall provide that such ordinance shall take effect and be in full force immediately upon its passage.

19 *Ordinances Admitted as Prima Facie Evidence in Judicial*

20 *Proceedings.*

Sec. 17. All ordinances or codes of ordinances adopted by the authority of the council shall, in all judicial proceedings in all courts, be admitted as prima facie evidence, and in any such proceedings it shall not be necessary to plead the entire ordinance or section, but only such parts thereof as are admitted in evidence.

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7

*Judicial Department: Police Court.*

Sec. 18. The judicial power of the city of Buckhannon shall  
2 be vested in a police court, which court is hereby created, and  
3 the mayor shall be the judge of said court. All trials shall be  
4 before said mayor without a jury.

5

*Jurisdiction of Said Court.*

Sec. 19. The police court shall have original and exclusive  
2 jurisdiction to hear and determine all offenses against the ordi-  
3 nances or the charter of the city of Buckhannon; and enforce  
4 the collection of all licenses, fees, rents, taxes, assessments, or  
5 other revenues required by ordinances except such actions and  
6 proceedings as fall within the exclusive jurisdiction of other  
7 courts under the provisions of the constitution and laws of this  
8 state.

9

*Enforcement of Ordinances.*

Sec. 20. The ordinances of the city of Buckhannon shall be  
2 enforced by the imposition of fines, forfeitures or penalties,  
3 against any person violating such ordinances or any of them;  
4 and the council shall prescribe in each particular ordinance made  
5 for that purpose, the minimum and maximum fine for the in-  
6 fraction thereof, which maximum shall not exceed one hundred

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7 dollars, exclusive of costs, for any one specific offense. The same  
8 costs shall be taxed in each criminal case tried in the police court  
9 as is provided by law to be taxed by justices of the peace, except  
10 that in every contested criminal case, the mayor may also tax an  
11 attorney fee of not exceeding five dollars, to be paid to the city  
12 prosecutor for his services in said case, if a conviction be had  
13 in said case.

14 *Fines and Costs: Prisoners May Be Worked on Streets.*

Sec. 21. The mayor may provide in all judgments of conviction  
2 for the violation of any ordinance of the city a fine, and  
3 that the person against whom said fine is assessed shall be imprisoned  
4 until the fine and costs of prosecution shall be paid,  
5 but not to exceed ten days. Any person committed for the non-  
6 payment of fine and costs, while in custody, may be compelled  
7 to work on the streets, alleys, public grounds or works until such  
8 fine and costs are paid, allowing one dollar fifty cents per day  
9 for the work of said prisoner to apply on said fine and costs.

10 *Collection of Fines: Disposition of Same.*

Sec. 22. All fines, penalties, forfeitures and collections of  
2 every kind made by the mayor shall be the property of the city  
3 and shall be deposited with the city treasurer within sixty days

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4 after the collection thereof, to be by him applied to the proper  
5 fund of the city as may by ordinance be required.

6 *Style of Process.*

Sec. 23. The style of process of the police court shall run in  
2 the name of the city of Buckhannon.

3 *Appeals to Higher Courts.*

Sec. 24. Appeals from the police court shall lie to the circuit  
2 court or criminal court of Upshur county, as is now or may be  
3 provided by statute of this state, governing appeals from police  
4 courts to circuit or criminal courts.

5 *Elective Officers: City Council: Who Shall Vote.*

Sec. 25. The municipal authorities of the said city of Buck-  
2 hannon shall consist of a mayor, recorder, and five councilmen,  
3 who shall constitute the council of the said city, and who shall  
4 be entitled to vote on all proceedings.

5 *Appointive Officers: Removal and Compensation.*

Sec. 26. The council shall appoint a city treasurer, chief of  
2 police, and such additional police officers as they may deem  
3 proper; a city attorney, chief of the fire department, assistant  
4 chief of the fire department, city engineer, city physician, city  
5 assessor, street commissioner and such additional street labor

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6 that is necessary to repair and maintain the streets of said city,  
7 and such other officers as may be provided for by ordinance of  
8 the city council or by this act. Such officers shall hold their  
9 respective offices during the pleasure of the council, and may be  
10 removed therefrom by the majority vote of the council at any  
11 time with or without cause. Such officers shall receive such  
12 compensation as the council may prescribe by ordinance or reso-  
13 lution, unless said compensation be fixed by this act.

### *Eligibility to Elective Office.*

Sec. 27. No person shall be eligible to be elected to the office of mayor, recorder or councilman, unless at the time of his election he is legally entitled to vote in the city election for member of the common council; and he was for the preceding year assessed with taxes upon real or personal property and shall not be delinquent for city tax.

*Eligible to Vote.*

Sec. 28. Each resident of the city of Buckhannon who is a  
2 citizen of the United States and who has resided in the State of  
3 West Virginia for at least one year and in the city of Buck-  
4 hannon for at least sixty days, and who is a bona fide resident  
5 of the city, shall be qualified to vote: *Provided*, That no person

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6 shall be deemed a bona fide resident who is residing within the  
7 city limits for any temporary purpose and expects to remove  
8 from the city after said purpose shall have been accomplished,  
9 and no person who is a minor, or of unsound mind, or a pauper,  
10 or who is under conviction of treason, or bribery in an election,  
11 or who may otherwise be legally disqualified from voting in this  
12 state, shall be permitted to vote therein.

13

*Registration of Voters.*

Sec. 29. The city council under the provision of this act may  
2 provide by ordinance for the registration of all persons entitled  
3 to vote at each subsequent municipal election, and the city coun-  
4 cil upon passing such registration ordinance shall appoint the  
5 registrars, specify the time for making the registration, and  
6 cause all persons entitled to vote in the city to be registered.  
7 The laws in force in the State of West Virginia for registering  
8 persons who are entitled to vote at a general election held in the  
9 state shall insofar as applicable govern the registration of per-  
10 sons entitled to vote at municipal elections, and the duties im-  
11 posed by the general laws of the state upon county courts and  
12 the clerks thereof shall be discharged respectively by the city  
13 council and the recorder, except the fee paid for registering the



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14 voters shall be fixed by the council.

15

*Elections.*

Sec. 30. On the first Tuesday of June, one thousand nine hundred thirty-three, there shall be elected by the qualified voters of said city a mayor, recorder, and five councilmen. The term of office of the mayor and councilmen of the first, third and fifth wards shall be for a period of two years, and the term of office for the said recorder and councilmen of the second and fourth wards shall be for a term of one year, and after the first said election held hereunder the term of office of all officers shall be for a term of two years: *Provided, however,* That the voters of the city shall by a separate ballot determine at this election whether at future elections the councilmen of the city shall be elected by the qualified voters of the entire city, or by the qualified voters of their respective wards.

14 The form of the ballot for such proposition shall be:

15 ☐ For election of councilmen by the voters of their respective wards.

17 ☐ Against election of councilmen by the voters of their respective wards.

19 If at such election the proposition carried by a majority vote

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20 then said section thirty as set out above shall be amended and  
21 shall read as follows:

22 On the first Tuesday of June, one thousand nine hundred  
23 thirty-three, there shall be elected by the qualified voters of said  
24 city a mayor, recorder, and five councilmen. The term of office  
25 of the said mayor and councilmen of the first, third and fifth  
26 wards shall be for a period of two years and the term of office  
27 for the said recorder and councilmen of the second and fourth  
28 wards shall be for a term of one year, and after the first said  
29 election held hereunder the term of office of all officers shall be  
30 for a term of two years, and after said first election the mayor  
31 and recorder shall be elected by the qualified voters of the city  
32 and the councilmen by the qualified voters of their respective  
33 wards. And the said section so amended shall be a part of the  
34 charter of said city and shall stand in lieu of section thirty as  
35 written above.

36

#### *Elections*

Sec. 31. The council may by ordinance approved at a referen-  
2 dum election called for the purpose, and held not less than  
3 ninety days before any regular municipal election, change the  
4 boundaries of the city, the number of officers, the length of their

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5 term and the manner of their election, except that municipal  
6 elections shall always be without political party designation and  
7 nonpartisan. When an election is held for the purpose of annex-  
8 ing additional territory to the city, the qualified voters of the  
9 territory that it is sought to annex shall also vote upon the  
10 proposition, and it shall be necessary that a majority of the total  
11 vote cast within or without the city be cast for the proposition.  
12 In the absence of other municipal authority to act for the resi-  
13 dents outside of the city of Buckhannon, the county court shall  
14 appoint the necessary election officers, cause all necessary ar-  
15 rangements to be made for the holding of said elections and the  
16 return of the results of same to the council of the city of Buck-  
17 hannon, who shall act as a canvassing board to ascertain the  
18 aggregate results of the said election both within and without  
19 the city. The costs of the election shall be borne by the city of  
20 Buckhannon, except that where another municipal corporation  
21 participates in the election, it shall bear such part of the total  
22 cost as shall have been incurred within its boundaries.

Sec. 32. The annual election shall be held on the first Tuesday  
2 in June of each year at the regular city voting places within the  
3 city and at such other voting places as the council by ordinance

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4 may provide. Said annual elections and all special elections shall  
5 be held under the supervision of the council and officials of the  
6 city and be conducted, certified, returned and finally determined  
7 in accordance with the provisions of this act and the laws and  
8 ordinances, or such parts thereof, as are now in effect or may  
9 hereafter be provided by ordinance not inconsistent with the  
10 provisions of this act, and the nominations of candidates for such  
11 elections shall be certified to the recorder of said city who shall  
12 prepare the ballots therefor.

### *Municipal Elections*

13  
Sec. 33-(a). Municipal elections under this act shall be con-  
2 ducted as follows: Any person eligible to office may become a  
3 candidate and have his name placed upon the ballot, upon his  
4 own motion, by filing with the city recorder a declaration of his  
5 candidacy and a certificate of his eligibility, duly acknowledged  
6 by him, within thirty days next preceding the day of the elec-  
7 tion. Said declaration and certificate shall be accompanied by  
8 an announcement fee as follows: If a candidate for mayor,  
9 the fee shall be ten dollars; if a candidate for recorder, the fee  
10 shall be seven dollars fifty cents; and if a candidate for council-  
11 man, the fee shall be five dollars; which fee shall be paid to the

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12 recorder, who shall pay the same over to the treasurer of the  
13 city. The names of all candidates for elective offices of the city  
14 shall appear on one ballot at the election held in June, one  
15 thousand nine hundred thirty-three, having seven columns, one  
16 for mayor; one for recorder, and one for each ward within the  
17 city, and thereafter the ballot shall have a column for each  
18 office for the candidates to be elected at said election, and said  
19 ballot shall be without party emblem or designation. The whole  
20 number of ballots to be printed for the election of mayor, re-  
21 corder and councilmen, mayor and councilmen, or recorder and  
22 councilmen, as the case may be, shall be divided by the greatest  
23 number of candidates for any one office and the quotient so ob-  
24 tained shall be the number of ballots in each series of ballots to  
25 be printed.

26 The form of the declaration of candidacy and certificate of  
27 eligibility of candidates shall be substantially as follows:

28 I,.....hereby certify that I am a candidate  
29 for the office of.....and desire my name  
30 printed on the official ballot to be voted for at the city election  
31 to be held on the.....day of.....19...; that I am a  
32 qualified voter of the city of Buckhannon, county of Upshur,

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33 State of West Virginia; that I reside in ward No....., in

34 said city; and that my residence number is.....

35 in said city; that I am eligible to hold the said office; and that I

36 am a candidate for said office in good faith.

37

.....

38

Signature of candidate.

39 Subscribed to and acknowledged before the undersigned

40 authority by.....this.....day of

41....., 19....

42

.....

43

Mayor, recorder or notary public.

44 (b) The names of candidates shall be arranged in alphabetical

45 order in each column, and the first series of ballots printed. The

46 first name in the column shall be placed last therein and the

47 next series of ballots printed and this process shall be repeated

48 until each name in each column shall have been first. These

49 ballots shall then be combined into tablets in the order of the

50 series with no two of the same series together.

51 (c) The ballot to be used for the election of officers shall be in

52 the form as follows:

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Mayor	<input type="checkbox"/>	<input type="checkbox"/>
Recorder	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, First Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Second Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Third Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Fourth Ward	<input type="checkbox"/>	<input type="checkbox"/>
Councilman, Fifth Ward	<input type="checkbox"/>	<input type="checkbox"/>

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Direction to Voter

76     Vote for only one candidate in each column by putting a cross  
77 mark in the square opposite the name of the candidate for whom  
78 you desire to vote. Do not mark more than one candidate in each  
79 column. If you spoil this ballot, tear it across and hand to the  
80 election officer in charge and he will give you another.

81     (d) A valid ballot shall be one on which the voter has clearly  
82 expressed his choice of one or more candidates. If a voter  
83 express the same choice for more than one candidate in any  
84 column his vote, as to that column, shall be void.

85     (e) The candidate in each column receiving the highest num-  
86 ber of votes cast for the office for which he is a candidate, in-  
87 dicated by such column, shall be declared elected. During the  
88 counting of the votes all ballots or votes not counted shall be  
89 marked by the election commissioners of each precinct with the  
90 words "not counted" written upon the ballot or opposite the  
91 vote not counted, together with a statement with the reasons  
92 for not counting, and the total number of invalid ballots marked  
93 thus and not counted shall be ascertained by them at the con-  
94 clusion of the counting, and be shown upon the precinct return



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*Henry D. Rogers*  
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95 certificate and subtracted from the total number of ballots taken  
96 from the ballot box.

Sec. 34. At least six weeks before any city election the mayor  
2 shall issue his proclamation calling the same, which shall be  
3 published in one or more newspapers published in said city for  
4 one week. At least fifteen days before the day of an election the  
5 city council shall prepare the ballots for such election, and shall  
6 select three commissioners and two poll clerks for each voting  
7-8 place, and may provide for a counting board for each voting  
9 place. The commissioners and poll clerks shall be qualified  
10 voters of the city and have such other qualifications as provided  
11 by general laws of the state for such officers at state, county, and  
12 district elections. The council shall, by ordinance, provide  
13 such additional regulations in conformity with the provisions of  
14 this act and the general law of the state as are necessary for the  
15 proper conduct of elections. Elections under this act shall be  
16 conducted, returned and the results thereof ascertained and  
17 declared in the manner prescribed by the constitution and laws  
18 of the state, insofar as said laws are not inconsistent with this  
19 act, and all penalties prescribed by said laws of the state insofar  
20 as consistent, shall be applicable unto this act.

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21 The duties required by the clerk of the circuit and county  
22 courts under the election laws of West Virginia, shall be per-  
23 formed by the recorder of said city. The duties required of  
24 commissioners of the county court under the provisions of said  
25 laws shall be performed by the council of said city. The duties  
26 required of the sheriff under the provisions of said laws shall  
27 be performed by the chief of police of said city, and the duties  
28 required of any constable under the provision of said laws shall  
29 be performed by any member of the police force, or member of  
30 the council, of said city. Whenever the word "county" appears  
31 in said laws, the same shall be taken to refer to the city of Buck-  
32 hannon, and whenever the words "election precinct" appears  
33 in said laws, the same shall be taken to refer to the election  
34 precinct or precincts for the municipal election, and whenever  
35 the word "court house" shall appear in said laws as designating  
36 the place of meeting of election officers, the same shall be taken  
37 to refer to the council chamber.

38 *Tie Vote, Elective Officers: How Decided*

Sec. 35. Whenever two or more persons receive an equal num-  
ber of votes for mayor, recorder or councilman, such tie votes  
shall be decided by the council in existence at the time the elec-

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tion is held, by placing their names in a hat and some member designated by the mayor shall withdraw one name therefrom; the person whose name is withdrawn shall be declared elected.

*Contested Elections*

Sec. 36. All contested elections shall be heard and determined by the council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in contests for county and district officers, and the council in their proceedings in such cases shall, as nearly as practicable, conform with like proceedings of the county court.

*Proceedings When Elected Officer Ineligible*

Sec. 37. If any person elected to any office shall not be eligible thereto under the provisions of this act, or shall fail to qualify as herein required, the council shall declare his said office vacant and proceed to fill the vacancy as set out in section nine of this act.

*Removal of Election Officers*

Sec. 38. Any elective officers may be removed at any time by the circuit court of Upshur county, West Virginia on any ground or cause for which a member of the county court of the county or other county officer may be removed, unless other-

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5 wise provided in this act. The proceedings for the removal of  
6 an elective officer shall conform in all respects with the proceed-  
7 ings to remove a county officer. On hearing of any such pro-  
8 ceeding no person called as a witness shall be excused from  
9 answering any question or giving any testimony because the  
10 answer or testimony might incriminate or tend to incriminate  
11 him, or render him liable to prosecution for an offense. But no  
12 witness called to testify in any such proceeding shall thereafter  
13 be prosecuted in any court in the state for any act concerning  
14 which he is required to testify or disclose by his testimony.  
15 Any person who shall be removed from office under the pro-  
16 visions of this section shall not thereafter hold any office or  
17 employment in the city of Buckhannon.

18 *Power to Appoint Officers by the Council*

Sec. 39 The council shall have authority to provide by ordin-  
2 ance for the appointment of such officers as shall be necessary  
3 and proper, to carry into full force and authority the power,  
4 capacity, jurisdiction and duties of said city, which are or shall  
5 be vested therein, or in the council, or in the mayor, recorder  
6 or any other officer or body of officers thereof, and to grant to the  
7 officers so appointed the power necessary or proper for the pur-

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*Henry*  
*Henry*

*Chairman Senate Committee.*

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8 pose above mentioned. The council by ordinance shall define  
9 the duties of all officers so appointed.

10 *Mayor: His powers and Duties*

Sec. 40 The mayor shall be the chief executive officer of the  
2 city and chairman of the city council and when present shall  
3 preside at all the meetings of the council; and in addition to  
4 all other duties imposed upon him by state and municipal laws  
5 and the council, shall indorse the approval of all officials bonds  
6 when same shall be approved by the council, sign all warrants  
7 and orders drawn upon the treasurer for money, sign all bonds,  
8 contracts, conveyances and other written obligations of the city,  
9 and all ordinances passed by the council, and shall cause each of  
10 the above enumerated writings to be attested by the recorder,  
11 under the seal of the city.

12 The mayor shall have supervision of the health department,  
13 and department of sanitation; he shall also have charge and be  
14 superintendent of the department of public affairs which shall  
15 include water works, parks, libraries, cemeteries, public service  
16 corporations operating under city franchise; the opening, grad-  
17 ing, paving, lighting, cleaning, repairing and sprinkling of  
18 streets, sewer and viaduct construction, sidewalks and crossings,

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19 and the city engineering department; he shall be the head of the  
20 department of peace and safety, and he shall have supervision  
21 and control of the fire department and police department. He  
22 shall see, except as may be herein otherwise provided, that the  
23 laws and ordinances of the city and the resolutions and orders of  
24 the council are enforced; that the peace and good order of the  
25 city are preserved; and that the persons and property therein  
26 are protected. He shall have the power to discharge or suspend  
27 any member of the police force, the chief or assistant chief of  
28 the fire department: *Provided, however,* That the council may  
29 reinstate any member discharged or suspended by an affirmative  
30 vote of a majority of all the members of the council.

31 The judicial power of the city of Buckhannon shall be vested  
32 in a police court, which court is hereby created, and the mayor  
33 shall be the judge of said court. All cases shall be tried by the  
34 mayor without a jury.

35 The police court may provide in all judgements of conviction  
36 for the violation of any ordinance of the city a fine and jail  
37 sentence, and that the person against whom said fine is assessed  
38 shall be imprisoned not to exceed ten days for the payment of  
39 the fine and sixty days for the jail sentence. And any person

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40 committed for the nonpayment of fine and costs, while in  
41 custody, may be compelled to work on the streets, alleys, public  
42 grounds or works until such fine and costs are paid, allowing one  
43 dollar fifty cents per day for the work of said prisoner to apply  
44 on said fine and costs.

45 All fines, penalties, forfeitures and collections of every kind  
46 made by the mayor shall be the property of the city and shall  
47 be deposited with the treasurer of the city within sixty days  
48 after the collection thereof, to be by him applied to the proper  
49 fund of the city as may by ordinance be required.

50 He shall also perform such other duties as may be prescribed  
51 by the council from time to time by ordinances and resolutions  
52 not inconsistent herewith.

53 In case of absence, sickness, or inability of the mayor to per-  
54 form the duties of his office, the recorder shall act as mayor and  
55 be empowered to enforce all rules and regulations pertaining to  
56 the office of mayor.

57 The mayor shall keep a well bound and indexed book to be  
58 denominated the "mayor's docket" in his office, in which he  
59 shall note each case brought or tried by him, together with the  
60 proceedings therein, including a statement of complaint, the

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61 summons, the return, the fact of appearance or nonappearance,  
62 the defense, the hearing, the judgment, the costs, and in case  
63 the judgment be one of conviction, the action taken to enforce  
64 the same; the record of such case shall be signed by the mayor  
65 or other person acting in his stead; and the original papers  
66 thereof, if no appeal be taken, shall be kept together and pre-  
67 served in his office.

68 The mayor shall have the power to issue an execution for any  
69 fine and cost imposed by him, for the violation of any ordinance,  
70 or he may at the time of rendering judgment therefor, or at  
71 any time thereafter and before satisfaction of such judgment,  
72 by his order in writing, require the immediate payment thereof,  
73 and in default of such payment he may cause the person so in  
74 default to be apprehended and brought before him, and com-  
75 mit him to the city jail or the jail of Upshur county, until the  
76 fine and costs are fully paid but not to exceed seventy days.

77 The mayor may be ex officio a justice and conservator of the  
78 peace within the city, and shall, within the same, have, and  
79 exercise all powers, and perform all duties vested by law in a  
80 justice of the peace, except that he shall have no jurisdiction in  
81 civil cases or causes of action arising out of the corporate limits  
82 of the city.



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83 The mayor shall have power to appoint the following standing  
84 committees: Finance; ordinance; fire department; streets,  
85 alleys and sewers; building; street lighting; cemetery; and  
86 board of health.

87 The committee shall consist of three men, the first being named  
88 shall be the chairman.

89 *Recorder, His Duties and Powers*

*Chairman House Committee.*

Sec. 41. It shall be the duty of the recorder to keep the record  
2 of the proceedings of the council. He shall enter in a separate  
3 volume all ordinances of a general nature, and carefully index  
4 the same. He shall enter in the municipal assessment docket all  
5 special assessments made for public improvements, showing the  
6 name of the owner of the property, the particular property on  
7 which the assessment is levied, the date of entry, and the minute  
8 book and page showing the entry of the ordinance or resolution  
9 creating the assessment, and the maturing time of the assess-  
10 ment. When and as the installments upon principal and in-  
11 terest on each assessment shall be paid, he shall enter such pay-  
12 ments showing the amount paid upon principal, the amount of  
13 interest, and penalty, if any, under the heading and in the ac-  
14 count of such special assessment. When special assessment,

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15 principal, and interest, and penalty, if any, imposed shall have  
16 been paid in full he shall make an entry in red ink on the face  
17 of the amount showing that the special assessment is fully satis-  
18 fied and paid and shall issue a release deed and have executed  
19 by the mayor and deliver same to the persons paying the same.

20 In the absence from the city, or in case of sickness, of the  
21 mayor, or during any vacancy in the office of mayor, the record-  
22 er shall perform the duties of the mayor and be invested with  
23 all his powers.

24 He shall have charge of all bond issues, assessments, and print-  
25 ing. He shall be the purchasing agent for the city, subject to  
26 the direction of the council, and shall perform such other duties  
27 as usually devolve upon a city recorder, not inconsistent here-  
28 with, as the council may from time to time prescribe.

29 He shall prepare and cause to be served all notices required to  
30 be given to any person, firm or corporation, and after proper  
31 service and return thereof of any notice, he shall file and pre-  
32 serve the same.

33 He shall file in convenient form so as to be readily accessible  
34 all correspondence carried on by the city or by any department  
35 thereof, and as custodian of all the books, records, and pro-

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36 ceedings of the council, he shall make and certify copies thereof  
37 whenever required, and affix the corporate seal of the city to  
38 any paper required to be sealed and to any certified copy of any  
39 paper, order, or proceeding which he may make.

40 A copy of any record, paper, entry, order, ordinance, resolu-  
41 tion or proceeding made by the council or by the police court  
42 judge when properly certified under the seal of the city shall be  
43 admissible as evidence in any court in the state in any proceeding  
44 in which the original paper or record, if present, would be  
45 admissible.

46 In preparing for and holding city elections, the duties required  
47 by the clerks of the circuit and county court under the election  
48 laws of West Virginia, shall be performed by the city recorder.  
49 The duties of preparing and publishing the annual financial  
50 statement of the city as provided for in another section of this  
51 charter shall be performed by the city recorder, for which he  
52 shall be paid a reasonable compensation.

53

*Treasurer's Duties and Powers*

Sec. 42. It shall be the duty of the city treasurer, when the  
2 extended copies of the assessor's books are completed, to receive  
3 a copy thereof, make out the tax tickets and receipt to the coun-

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4 cil for the entire amount of city taxes extended thereon, and it  
5 shall be his duty to collect from the persons or corporations the  
6 entire amount of the taxes with which they are severally charg-  
7 ed therein, and may proceed to collect the same at any time  
8 after the first day of August, and may enforce the payment  
9 thereof by levy upon the personal property and sale thereof.  
10 All taxes assessed on both real and personal property by the  
11 city of Buckhannon, beginning with taxes assessed for the year  
12 one thousand nine hundred thirty-two, shall be collected by the  
13 city treasurer and may be paid in equal installments; the first  
14 installment shall be paid on or before November first of the  
15 year in which the assessment is made; the second installments  
16 shall be paid on or before the first day of the following May.  
17 All taxes paid on or before the date such taxes are payable, in-  
18 cluding both first and second installments, shall be subject to a  
19 discount of two and one-half percent. If the first installment  
20 is not paid before December first of the year, interest at the  
21 rate of nine percentum per annum shall be added from said  
22 December first until paid; if the second installment is not paid  
23 before June first, interest at the rate of nine percentum shall  
24 be added from said June first until paid. The treasurer shall

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25 on the first day of December and the first day of June following  
26 the year for which the taxes were levied proceed immediately  
27 to collect the taxes then due.

28 It shall be the duty of the city treasurer to keep all funds of  
29 the city in some bank or banks within said city, which shall pay  
30 interest on such deposits and on the average daily balances of  
31 such funds of the per cent equal at least to that paid by state  
32 depositories on all funds of the State of West Virginia and in  
33 the same manner and at the same time. The said bank shall  
34 also deposit with the city a bond or sufficient security to cover  
35 an equal amount of the city's money in said bank. If no bank

36 within said city is willing at any time to receive deposits of the  
37 treasurer and pay such interest thereon, and secure the deposits  
38 by a bond or security, the treasurer shall report this fact to the  
39 council, whereupon the council shall designate the bank or banks  
40 in which he shall deposit said funds for the time being and until  
41 some bank in said city will receive such deposits on such terms.

42 Said taxes shall be a lien upon the property upon which they  
43 are assessed from the time the assessor's books are completed,  
44 verified and returned to the city council, and he shall write the  
45 word "paid" opposite the name of each person who pays the

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46 taxes against him, and shall also give to the person paying such  
47 taxes a receipt therefor: *Provided, however,* That the said  
48 treasurer may distrain at any time for any taxes assessed  
49 against a person who is about to remove or who has removed  
50 from said city, after such taxes are assessed, and the books re-  
51 turned as aforesaid. He shall also receive such other moneys of  
52 the city as he is authorized by this act to receive, and also all  
53 moneys ordered by the council to be paid to him, giving receipt  
54 therefor to the persons paying the same, and shall keep an ac-  
55 curate, itemized account of all money received by him. His  
56 books shall, at all times, be open for the inspection of the mayor,  
57 council, city recorder and to any taxpayer of the city. He shall  
58 also make up monthly statements of the money received by him  
59 and the amount paid out by him and to whom, showing the  
60 amounts in his hands from all sources, and shall file the same  
61 with the council not later than first regular meeting of the suc-  
62 ceeding month. He shall pay out the money in his hands upon  
63 the order of the city council, upon orders signed by the mayor  
64 and the recorder. He shall, on or before the expiration of term  
65 of office of the mayor, and at such other times as the council may  
66 require, present to the council a full and complete statement of

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67 all the moneys, with which he is chargeable, or that have been  
68 received by him and not previously accounted for, and shall at  
69 the same time, in like manner, furnish a complete statement, by  
70 separate items, of all disbursements made by him during such  
71 period, with his vouchers evidencing the same. He shall receive  
72 street paving assessments, all taxes and licenses and receipt to  
73 the person paying the same by endorsement upon the permit  
74 granted by order of the council, or mayor as the case may be.  
75 He shall, upon the expiration of his term of office, turn over to  
76 the council all books and other possessions belonging to the city,  
77 except the money in his hands, which he shall turn over to his  
78 successor, upon the order of the council, as hereinbefore pro-  
79 vided; and shall before entering upon the duties of office, execute  
80 a bond with good security, payable to said city in a penalty of  
81 not less than ten thousand dollars nor more than twenty thou-  
82 sand dollars, conditioned that he will faithfully discharge the  
83 duties of his office and account for and pay over as required  
84 by law and the orders, ordinances, rules and regulations of the  
85 council of said city, all money which shall come into his hands  
86 which bond shall be subject to the approval of the council. He  
87 shall be chargeable with all the city taxes, levies and assessments

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88 and money of the city, which shall come into his hands and  
89 shall account therefor.

90 The city treasurer shall receive such compensation as shall be  
91 fixed by the council by ordinance or resolution, and the salary  
92 so fixed shall include the compensation for making out tax tickets  
93 and such other duties as the council shall prescribe: *Provided,*  
94 That such compensation shall at no time exceed two per cent  
95 upon the taxes collected by such treasurer.

96 *City Attorney: Duties and Compensation*

Sec. 43. The city attorney shall be a member of the bar of  
2 Upshur county in good standing and shall perform and dis-  
3 charge all duties and exercise all powers which shall be con-  
4 ferred upon him by any ordinance or resolution of the city  
5 council, and in addition he shall exercise the following powers:  
6 (a) Be the legal adviser of and attorney and counsel for  
7 the city and for all administrative officers thereof, in respect  
8 to their official duties;  
9 (b) Prosecute and defend all suits for or against the city  
10 and prepare all contracts, bonds and other writings in which  
11 the city is concerned, and endorse on each his approval of the  
12 form and correctness thereof;



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13 (c) Be prosecuting attorney of the police court and prose-  
14 cute all cases brought before such court, and perform the same  
15 duties so far as they are applicable thereto as are required of  
16 the prosecuting attorney of the county: *Provided, however,* That  
17 it shall be necessary for said city attorney to appear in criminal  
18 cases only when so requested by the mayor, or other proper  
19 authority;

20 (d) The city council and all administrative officers of the  
21 city may require the opinion of the city attorney upon any  
22 question of law involving their respective powers and duties,  
23 and he shall furnish the same in writing when so requested;

24 (e) Be present at all regular meetings and special meetings  
25 of the city council to advise the mayor and council on legal  
26 questions arising and to advise the city recorder in the prepara-  
27 tion of resolutions and ordinances, and perform such other  
28 services relating to his profession as may be required by the  
29 council;

30 (f) The city attorney shall receive for his services an annual  
31 retainer fee not to exceed three hundred dollars, said fee to be  
32 fixed by the council payable out of the city treasury.

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*City Engineer: Duties*

Sec. 44. The city engineer shall be a competent civil and  
2 mechanical engineer and shall discharge all duties and exercise  
3 all powers which shall be conferred upon him by any ordinance  
4 or resolution of the city council, and in addition he shall exer-  
5 cise the following powers:

6 (a) Make surveys and fix grades when required by the city  
7 council or mayor; prepare plans, plats and specifications of all  
8 improvements which may be undertaken when required; and  
9 inspect all work done by any contractor for the city while the  
10 work is being performed;

11 (b) Supervise the construction of all buildings, the erection  
12 of which is controlled or regulated by the city;

13 (c) Furnish to any resident any street or sewer grade when-  
14 ever required on such terms as the council shall prescribe;

15 (e) Make complete maps of all streets, alleys, lanes, parks  
16 and public property owned by the city and keep the same on  
17 file in the city office and furnish a copy thereof to the mayor.  
18 He may make recommendations as to the kind of improvements  
19 required or suitable for any street, alley, lane, or locality in the  
20 city;

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21 (f) He shall also perform such other duties as may be pre-  
22 scribed by the council from time to time by ordinances and  
23 resolutions not inconsistent herewith.

24 *Street Commissioner: Duties*

Sec. 45. The street commissioner shall have general supervi-  
2 sion and control of the trucks, road machines, graders and all  
3 property and machinery of the city to be used for maintaining  
4 and upkeep of the city streets.

5 (a) General supervision of the work of repairing and keep-  
6 ing in repair all pavements, sidewalks, curbs and sewers in the  
7 city;

8 (b) General supervision over the men employed by the city  
9 to work in the street department and shall keep an accurate  
10 statement of their time at work and file same with the recorder  
11 of the city, signed by him;

12 (c) He shall also perform such other duties as may be  
13 prescribed by the council from time to time by ordinance or  
14 resolutions not inconsistent herewith.

15 *City Physician: Duties and Powers*

Sec. 46. The city physician shall be a member of the medical  
2 profession in good standing and shall discharge all duties and

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3 exercise all powers which shall be conferred upon him by any  
4 ordinance or resolution of the city council; and, in addition, he  
5 shall exercise the following powers:

6 (a) See that all property and premises within the city are  
7 kept clean and free from unsightly or obnoxious rubbish and  
8 in a thoroughly sanitary condition;

9 (b) See that all ponds, cesspools and swamps within or  
10 adjacent to the city are drained, cleaned and rendered sanitary  
11 so as not to injuriously affect the inhabitants of the city;

12 (c) Institute before the police court judge all proceedings  
13 and prosecutions necessary to enforce all laws, ordinances and  
14 regulations relating to the preservation and promotion of the  
15 public health and necessary to make the city sanitary, and to  
16 prevent and restrict diseases, and in so doing, he shall have the  
17 assistance of the city attorney;

18 (d) Institute and prosecute proceedings before the city coun-  
19 cil for the supervision, prevention or abatement of nuisances,  
20 and in so doing, he shall have the assistance of the city attorney;

21 (e) Provide for the sanitary inspection and supervision of  
22 the production, transportation, storage and sale of food and  
23 food stuffs, the regulation and inspection of weights and meas-

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24 ures, and the collection and disposal of all waste and garbage;

25 (f) In time of epidemic or threatened epidemic, he shall  
26 enforce such quarantine and isolation rules and regulations as  
27 are appropriate for the emergency;

28 (g) Provide for study and research into cases of poverty,  
29 delinquency, crime and disease. He shall by lectures, public  
30 instructions and otherwise instruct and educate the people of  
31 the community in matters affecting the public welfare which  
32 relate to sanitation, cleanliness, and how to avoid insofar as  
33 possible sickness and disease;

34 (h) Instruct the least informed and most ignorant members  
35 of the community how best to avoid and to cure all venereal  
36 diseases, and afford them all assistance required in carrying  
37 out such instructions;

38 (i) Supervise the discharge of all obligations of the city  
39 under any law of the United States of America or of the State  
40 of West Virginia to treat and care for persons addicted to the  
41 use of drugs.

42

*Chief of Police.*

Sec. 47. The chief of police shall discharge such duties as  
2 may be required of him by ordinance or resolution of the council

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3 and shall act under the orders of the mayor in administering  
4 the police department.

5 *Chief of the Fire Department: Duties*

Sec. 48. The chief of the fire department shall have general  
2 supervision and control of the property and appliances of the  
3 city to be used for the prevention and extinguishment of fires.  
4 He shall be under the direction, authority and subject to the  
5 orders of the mayor at all times in the administration of the  
6 fire department. He shall make such inspections as may be re-  
7 quired of buildings and property throughout the city in rela-  
8 tion to the matter of fire risks.

9 He shall, under the direction of the mayor, discharge all the  
10 duties which may be imposed upon him by any ordinance or  
11 resolution adopted or passed by the city council.

12 *Assessor: Duties*

Sec. 49. The council may appoint a city assessor each year  
2 and prescribe his duties and fix his compensation by resolution  
3 or ordinance.

4 *Moneys and How Expended.*

Sec. 50. All moneys belonging to the city shall be paid over  
2 to the city treasurer; and no money shall be paid out by him

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3 or her except as the same shall have been approved by the council and upon an order signed by the mayor and recorder, and not otherwise, except at the expiration of his or her term of office upon order of the council, signed by the mayor and recorder, he or she shall pay over to his successor all the money remaining in his hands.

9 *Levies Annual or Special, Poll Tax, License Tax on Animals,*  
10 *Annual Levy, Special Levies for Outstanding*

11 *Indebtedness.*

Sec. 51. The council shall lay an annual levy or an additional or special levy each year and may include a poll tax of not exceeding two dollars each year upon each male citizen over the age of twenty-one years, who is not exempted from paying poll tax under the laws of the State of West Virginia, and the said council may also impose a tax of one dollar per annum upon each male dog, and two dollars per annum upon each female dog owned by any resident of the city and collect the same from the said owners of such animals, as other taxes are collected, and prescribe such rules, regulations and penalties governing the payment of said tax on animals as they may deem reasonable. The general annual levy upon the taxable property within

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1 the corporate limits of said city shall not exceed the sum of  
2 fifty-five cents upon each one hundred dollars' assessed valua-  
3 tion. But in addition to said levy above mentioned and in ad-  
4 dition to any levies provided by the general law, the council  
5 of said city, are empowered to and shall lay a special levy not  
6 to exceed fifteen cents on each one hundred dollars' valua-  
7 tion of the property in said city for the purpose of creating  
8 a sinking fund with which to pay off the principal of the pres-  
9 ent outstanding bonded indebtedness of said city when the same  
10 becomes due and of retiring the bonds so outstanding in accord-  
11 ance with the provision thereof, and for the further purpose  
12 of paying annually when due, the interest coupons of the said  
13 present outstanding bonded indebtedness of the said city,  
14 which said special levy shall be continued annually by the coun-  
15 cil for as many years as it may be necessary to pay off the  
16 present and any future bonded indebtedness and the interest  
17 coupons that may become due thereon. The above mentioned  
18 special sinking fund levy shall be used for no other purpose  
19 except as set out above.



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32 *Certificate by County Assessor to Recorder of Assessment;*

33 *Rate of Levy; Correction of Erroneous Assessment*

Sec. 52. The officer whose duty it is to make out the land  
2 and personal property assessment books for the county court of  
3 Upshur county, shall annually, not later than the twentieth day  
4 of July, furnish to the city recorder of the city of Buckhannon,  
5 a certified statement showing in separate amounts the aggregate  
6 value of all the personal property, and the aggregate value of  
7 all the real estate and the aggregate value of all property  
8 assessed by the board of public works, or other board in lieu  
9 thereof, in said city, as ascertained from said land and personal  
10 property books, and from the assessments furnished by the state  
11 auditor to the county clerk showing the value of the property  
12 assessed in said city by the board of public works for the cur-  
13 rent year. The statement so furnished shall be laid by the city  
14 recorder before the council at its next meeting (not later than  
15 the first day of August), and shall be taken by the said council  
16 as the proper valuation of all property in said city liable for  
17 taxation for municipal purposes for the current fiscal year, and  
18 as soon as rate shall have been determined upon, the city re-  
19 corder shall furnish the officer whose duty it is to make out

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29 In case there has been made an erroneous or improper assess-  
30 ment, evidence, submitted to the council of the correction of  
31 such assessment upon the county's books, or the granting of an  
32 exoneration or abatement by the county court, shall be taken  
33 as the basis for the correction of the city's books and the grant-  
34 ing by the council of the proper abatement or exoneration.

### *Liens for Assessments, Taxes, Etc.*

Sec. 53. There shall be a lien on all real estate within the  
2 said city for the city taxes assessed thereon, and for all fines  
3 and penalties assessed against or imposed upon the owners  
4 thereof, by the authorities of said city, including expenses for  
5 making, maintaining, and repairing, paving and macadamizing

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6 sidewalks, drains, gutters and streets, otherwise improving  
7 from the time work is begun, which shall have priority over all  
8 the other liens except taxes due the United States and the lien  
9 for taxes due the state, and county and district, and such lien  
10 may be enforced by the council in the manner provided by law  
11 for the enforcement of the lien for county taxes. And the laws  
12 of the State of West Virginia in relation to delinquent taxes,  
13 and the sale of property therefor, are hereby and in all respects  
14 adopted as to all proceedings in relation to taxes for city pur-  
15 poses delinquent in said city. And the powers and duties con-  
16 ferred by the laws of said state upon county courts and their  
17 clerks and sheriffs in regard to delinquent taxes and their col-  
18 lection, are hereby in all things conferred upon said city council,  
19 its recorder and other city officials, insofar as the same may  
20 be directly or by implication applicable in the collection of de-  
21 linquent taxes due said city.

22

*License, License Tax, Etc.*

Sec. 54. The council shall prescribe by ordinance the time  
2 and manner in which licenses of all kinds shall be applied for  
3 and granted, and shall require the payment of the tax thereon  
4 to the city treasurer before the delivery thereof to the persons

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5 applying therefor, which tax shall include the same fees for the  
6 issuing of such license as are charged for similar services by  
7 state and county officers, which fees shall be paid to the city  
8 recorder.

9 The council may revoke any license for a breach of any of the  
10 conditions, or for other good causes shown, but the person hold-  
11 ing such license must first have reasonable notice of the time  
12 and place of hearing and adjudicating the matter as well as the  
13 cause alleged; and shall be entitled to be heard in person or  
14 by counsel, in opposition to such revocation. The term for  
15 which licenses provided for in this charter shall be granted and  
16 be governed by the general law providing for state licenses.

17 The mayor may prescribe, impose and enforce a fine, upon  
18 any person carrying on or attempting to carry on any business  
19 or doing anything for which a city license may by ordinance be  
20 required, without first obtaining a city license therefor and  
21 paying the city license tax thereon. For the purpose of en-  
22 forcing the provisions of this section the city shall have police  
23 jurisdiction for one mile beyond the corporate limits of the  
24 city.

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25

*Condemnation*

Sec. 55. The council shall have the right to institute and  
2 prosecute proceedings in the name of the city for condemnation  
3 of real estate for streets, alleys, roads, drains, sewers, market  
4 grounds, city prison, city hall, water works, electric light plant,  
5 or other works, or purposes of public utility. Such proceedings  
6 shall conform to the provisions of the general law of West Vir-  
7 ginia and the expenses thereof shall be borne by the city, except  
8 in cases where it is proper under said chapter to charge said  
9 expenses or any part thereof against the defendant.

10

*Improvement Bonds*

Sec. 56. The council of said city shall have the right to bond  
2 the city for the purpose of paving the said streets, or for other  
3 permanent improvements or for the purpose of taking up, pay-  
4 ing off or refunding any already outstanding city bonds or items  
5 of indebtedness, whenever the council thereof may deem the  
6 same necessary; but the aggregate indebtedness of the said  
7 city for all purposes shall never at any time exceed five per-  
8 centum of the assessed valuation of the taxable property there-  
9 in according to the last assessment next preceding said date.  
10 The said council shall provide a fund for the payment of the

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11 interest annually on the said indebtedness so created, and to  
12 pay the principal thereof within and not exceeding thirty-four  
13 years: *Provided*, That no debt shall be contracted hereunder,  
14 unless all questions connected with the same be first submitted  
15 to a vote of the qualified voters of said city, and have received  
16 three-fifths of all the votes cast for and against the same.

17 *Contracts of Public Improvements, Etc.*

Sec. 57. All contracts pertaining to public improvements,  
2 maintenance of public property, public printing, purchase of  
3 supplies and all other contracts whatsoever, involving an out-  
4 lay of as much as five hundred dollars, shall be made by the  
5 council and shall be based upon specifications provided for the  
6 competitive bids. Such competitive bids shall be sealed and one  
7 copy of each bid shall be filed with the recorder of the city.  
8 Each bidder shall accompany his bid with a sworn statement, in  
9 writing, that the bidder has not directly, nor indirectly, entered  
10 into any agreement, express or implied, with any other bidder  
11 or bidders, having for its object the control or amount of such  
12 bids, or limiting the bids or bidders, parceling or farming out  
13 to any bidder or bidders or other persons, or any part of the  
14 contract or any part of the subject matter of the bid or the

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15 parts thereof. No bidder shall divulge said sealed bid to any  
16 person whatever except those having a partnership or other  
17 financial interest with him in said bid, until after said sealed  
18 bids are opened. The violation of any of the foregoing provi-  
19 sions on the part of the bidder shall, at the election of the  
20 council, make void any contract made by him with said city  
21 based upon such bid. The awarding of a contract upon a suc-  
22 cessful bid shall give the bidder no right of action or claim  
23 against the city upon such contract until the same shall have  
24 been reduced to writing and duly signed by the contracting  
25 parties. All bids filed with the recorder of the council shall be  
26 opened in the presence of the council two days before the con-  
27 tract shall be entered into upon any such bids. The council  
28 shall consider the bids and may reject any and all bids and  
29 ask other bids, or may enter into a contract with the party  
30 offering the lowest and best bid, or may have such work done  
31 under the supervision of the proper department and keep ac-  
32 count of the expense thereof. Pending acceptance of bids, the  
33 plans and specifications and profiles shall remain on file in the  
34 office of the recorder subject to the inspection of any person.  
35 For safeguarding the interests of the city, the council shall

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36 make such regulations providing for the filing of the estimates  
37 furnished them by the city engineer, or other persons making  
38 such estimates of cost, as they may deem best. The council  
39 shall have power to require all bidders to make such bonds or  
40 cash deposits as they may deem proper to secure the perform-  
41 ance of the contract awarded.

42 *Limitation on Indebtedness, Penalty for Violation*

Sec. 58. The council of the said city shall not, at any time,  
2 for any purpose, create any indebtedness against the said city  
3 except as provided in the next preceding section, exceeding  
4 the available assets of the said city for the current year; and  
5 if the said council shall create such indebtedness or issue orders  
6 on the city for an amount exceeding the amount of money avail-  
7 able for that year for said city from all sources, and the amount  
8 of money then in the treasury appropriated, the members of  
9 said council shall be severally and jointly liable for the payment  
10 of the excess of such indebtedness or orders over the amount  
11 of the money applicable thereto, and the same may be recovered  
12 in any court having jurisdiction thereof. Any councilman vio-  
13 lating the provisions of this section shall be deemed guilty of



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14 malfeasance in office, and may be removed as such councilman  
15 in pursuance of section fifteen of this act: *Provided, however,*  
16 That this shall not be applicable to such members who have  
17 voted against said excess: *And provided further,* That the vote  
18 of each member of the council shall be recorded.

19

*Claims Against the City*

Sec. 59. Every claim against the city must be approved by  
2 the officer in whose department it originated, and be filed with  
3 the recorder of the city in writing, with a full account of all  
4 items thereof, and must be subscribed by the claimant or his  
5 agent or attorney, who, on oath, shall declare that the same is  
6 correct, just, due and unpaid, and no claim or demand shall  
7 be allowed or suit filed thereon unless so prepared and filed,  
8 and unless suit shall be filed upon such claim within twelve  
9 months after the same shall have been so filed with the recorder  
10 of the city as above provided, such claims shall be forever  
11 barred, and upon all suits filed to enforce such claims such bar  
12 shall be pleaded.

13

*Payments of Demands Unauthorized*

Sec. 60. Every officer who shall knowingly prove, allow or  
2 pay any demand upon the treasury of the city not authorized

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3 by law, ordinance or this act, shall be liable to the city individ-  
4 ually and on his official bond for the amount of the demand so  
5 illegally approved, allowed or paid.

6

*Conservators of the Peace*

Sec. 61. The mayor, recorder and councilmen of the city of  
2 Buckhannon shall each be a public conservator of the peace,  
3 and said officers and each member of the police department, in  
4 addition to the power of enforcing ordinances of the city and  
5 in aid of such powers, shall have the same police powers as are  
6 given to a constable in making arrests and preserving the peace  
7 and safety over territory outside of the city, but under its con-  
8 trol, as may be conferred by the laws of the state and the pro-  
9 visions of this act.

10

*Fiscal Year*

Sec. 62. The fiscal year of the city shall commence on the  
2 first day of July each year and shall end on the thirtieth day  
3 of June next following.

4

*Publication of Financial Statement*

Sec. 63. The city of Buckhannon shall cause to be published  
2 in two newspapers of opposite politics, if there be such published  
3 therein, at a compensation not to exceed the rate provided by

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4 the law for like publications, for one issue, or, to be published  
 5 in pamphlet form not less than one hundred copies of a sworn  
 6 statement of the financial condition of such corporation. Such  
 7 statement shall contain an itemized statement of the receipts  
 8 and expenditures of the city, showing the source from which  
 9 all money was derived, and the name of the person to whom an  
 10 order was issued, showing the total amount issued to him, ar-  
 11 ranging the same under distinct departments, showing the pur-  
 12 pose for which any debt was contracted and the amount of  
 13 money in the treasury at the end of the preceding administra-  
 14 tion and the debts contracted by it.

15 Such statement shall be prepared by the city every twelve  
 16 months and then shall be printed according to the provisions  
 17 of this section. Either method of making the report shall be  
 18 sworn to by the recorder.

19 If a city council fail or refuse to perform the duties herein-  
 20 before named, every member of such council and the recorder  
 21 thereof concurring in such refusal shall be guilty of a mis-  
 22 demeanor, and, upon conviction thereof, shall be fined not less  
 23 than ten nor more than one hundred dollars.

24 If any of the provisions in this section are violated, it shall

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25 be the duty of the prosecuting attorney of Upshur county to  
26 immediately present the evidence thereof to the grand jury if  
27 in session, and if not in session, he shall cause such violation  
28 to be investigated by the next succeeding grand jury.

29 *Sewerage and Paving*

Sec. 64. All provisions of sections one, two, three, four, five,  
2 six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen,  
3 fifteen, sixteen, seventeen and eighteen, article nine, chapter  
4 eight of the code of West Virginia, one thousand nine hundred  
5 thirty-one, not inconsistent herewith, are hereby made parts of  
6 this chapter as though set forth herein in detail, and the council,  
7 by a majority vote of their members, shall have power to enforce  
8 the same in said city; they shall adopt all such ordinances and  
9 resolutions as may be necessary to put said provisions into  
10 effect.

11 *Public Utility Franchises*

Sec. 65. The city council may by ordinance grant permission  
2 to any individual, firm or corporation to construct and operate  
3 a public utility in, over and under the streets, alleys and pub-  
4 lic grounds of the city under the provisions of law applicable  
5 thereto; but no franchise shall be considered an emergency

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6 measure. It may by ordinance renew any franchise to construct  
7 and operate a public utility in, over and under the streets, alleys  
8 and public grounds of the city, or may grant to any individual,  
9 firm or corporation operating a public utility the right to ex-  
10 tend the appliances and service of such utility; but the right to  
11 use and maintain any such extension shall expire with the ori-  
12 ginal grant to the utility or of any renewal thereof. It shall  
13 control the distribution of space in, over or across all streets or  
14 public grounds accupied by public utility fixtures. All rights  
15 hereafter granted for the construction and operation of public  
16 utilities shall be subject to the continuing right of the council  
17 to require such reconstruction, relocation, change or discontinu-  
18 ance of fixtures and appliances used by the utility in such  
19 streets, alleys or public grounds, as the council may deem neces-  
20 sary for the public convenience: *Provided*, That no franchise  
21 shall be granted for a period exceeding fifty years, and no re-  
22 newal thereof shall exceed a like period.

23

*Pollution of Water Supply of the City*

Sec. 66. In order to preserve the health and insure the com-  
2 fort of the inhabitants of the city of Buckhannon by preventing  
3 the pollution of the water and water supply of the city for

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4 domestic use, it shall be unlawful for any person, firm, or cor-  
5 poration to deposit, discharge, throw or cause to be thrown into  
6 the Buckhannon river above the water station of the city, or into  
7 any tributary brook or stream which falls or flows into said  
8 river above said point, any dead carcass of any animal, fowl, or  
9 fish, any sewage or sewage effluent, or the content of any privy  
10 or privy vault, or any offal from any slaughter house or butcher  
11 establishment, or any spoiled fish, meat, cheese, lard, molasses,  
12 grain or any obnoxious vegetable, mineral or animal substance, or  
13 any tins in which foods or liquids have been preserved, or any  
14 crude oil, refined oil, petroleum, or any compound or mixture of  
15 oil or filth from any oil well, oil tank, oil vat or place of deposit  
16 of crude or refined oil, or any other vegetable, mineral or animal  
17 substances, or waters charged and polluted with minerals, or  
18 combination of two or more of such substance, which of itself  
19 or in connection with other matter will or might corrupt, pollute,  
20 or impair the quality of the water in said river and streams; or  
21 to throw or deposit, cause to be thrown or deposited, or permit  
22 to be thrown or deposited upon any premises owned by him or  
23 them, upon or near to the margin of said river, creeks, and  
24 streams, in such proximity as to permit the obnoxious substances

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25 to be washed or carried into said river or streams by rains, flood-  
26 ing and drainage; but all liquid substances, the discharge of  
27 which into said stream or streams is prohibited, shall be dis-  
28 charged or deposited in the fields at a distance from the margin  
29 of any said streams so that they will be thoroughly filtered and  
30 cleansed before reaching the streams.

31 Any person convicted of violating any of the provisions of  
32 this section by a court of competent jurisdiction shall be fined  
33 not more than one thousand dollars and imprisoned in the  
34 county jail of the county for not more than one year.

35

*Motor Vehicles*

Sec. 67. The city council shall have power to license and regu-  
late by ordinance all taxicabs, automobiles and vehicles of like  
motive power engaged in the transportation of passengers or  
freight for hire over the streets and alleys of the city, and may  
require bond from the owners thereof for their faithful com-  
pliance with all ordinances and rules and regulations made in  
pursuance thereof; also to regulate and fix the rate of charges  
to be made for transporting and hauling passengers and freight,  
and to make it unlawful to charge a higher rate than the  
maximum fixed by the council.

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11

*Services of Notices*

Sec. 68. Whenever any notice is required to be given by the  
2 city or any department thereof, or any summons, warrant or  
3 other process is required to be served or otherwise executed  
4 under the provisions of this act, it shall be sufficient if such  
5 notice, summons, warrant or other process be served or executed  
6 and return thereof be made by any member of the police force  
7 of said city in the same way or manner in which the laws of the  
8 state provide for serving and executing notices, summons and  
9 warrants by state officers, unless otherwise provided in this act.

10

*Assessments for Removing Snow, Weeds, Etc.*

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Sec. 69. The city council shall have power to provide by  
2 ordinance for assessing against the abutting property the cost  
3 of removing from sidewalks all accumulations of snow and ice  
4 and for assessing against the property the cost of removing rub-  
5 bish and the cutting and removing of noxious weeds from any  
6 lot or grounds in the city.

7

*Sidewalks*

Sec. 70. The city council is hereby authorized and empowered  
2 to cause to be put down a suitable sidewalk and curb of brick,  
3 stone or other material along and for the footways and sidewalks



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4 of the public streets and alleys of said city, and to order and  
5 cause the grading, laying or relaying or repair of sidewalks and  
6 gutters, of such material and width as the council may deter-  
7 mine; and to require the owners or occupiers of the lot or lots  
8 or parts of lots facing upon said streets and alleys to keep such  
9 sidewalks clean and in good repair. The owners or occupiers  
10 of the lots or fractional parts of lots abutting upon such streets  
11 and alleys shall not grade or lay any such sidewalk, curb or  
12 gutter, unless specially requested to do so by resolution adopted  
13 by the council, and then only of the kind prescribed by the  
14 council; but the city may lay such sidewalk, curb or gutter and  
15 grade therefor, or may let said work by contract, and in either  
16 case the total cost of said work shall be charged upon and  
17 assessed against the lots or fractional parts of lots abutting upon  
18 the streets and alleys so improved, or specially benefited by  
19 said work, in proportion to the number of feet frontage thereon  
20 of each such lot or part of lot, and shall be and remain a lien  
21 thereon from the date of acceptance of the work by the city,  
22 and said lien shall have priority over all other liens except those  
23 for taxes due to the state, and shall be on a parity with the  
24 taxes and assessments due the city, and shall bear interest from

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25 the date of acceptance of the work by the city, or from the  
26 completion thereof when done by the city, and shall become due  
27 and payable when declared final by the council. The amount  
28 assessed against any lot, or fractional part of lot, together with  
29 the interest shall also be a debt against the owner of such lot or  
30 part of lot. Immediately upon completion of the work, if done  
31 by the city, or upon acceptance of the work if done by contract,  
32 the council shall cause the city recorder to serve a notice upon  
33 the owners of each lot or fractional part of lots over which such  
34 sidewalks are graded, paved, curbed or laid, shall describe such  
35 lot or part of lot with reasonable certainty sufficient to identify  
36 the same, and shall also state the number of feet over each lot  
37 or part of lot so graded, curbed or laid with sidewalk, together  
38 with the amount assessed against each owner; which notice shall  
39 be served as provided for the service of notices in this act and  
40 shall cite all said owners to appear before the council at a  
41 regular meeting to be held within fifteen days following the  
42 service of publication thereof and show cause, if any they can,  
43 why such assessments should not become final. Protests against  
44 said assessments shall be heard and determined and said assess-  
45 ment shall become final and be recorded by the city recorder,

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46 certified for collection, and the collection thereof enforced  
47 against the property assessed and against the owner thereof,  
48 and a certificate of said assessments certified to the clerk of the  
49 county court for recordation, and recorded in all respects in  
50 the same manner and with the same legal effect as provided in  
51 the case of assessments for street paving or other local improve-  
52 ments in this act.

53

*Act Construed*

Sec. 71. All provisions contained in this act in respect to  
2 making improvements shall be liberally construed by the council  
3 and by the courts. Immaterial and technical objections shall be  
4 disregarded; all special benefit assessments ascertained and not  
5 contested before the council within the time specified by law  
6 from the ascertainment thereof shall be deemed conclusive, and  
7 in any contested case the ascertainment by the council shall be  
8 conclusive

9

*Repeal of Former Acts*

Sec. 72. The act of the legislature of West Virginia, passed  
2 February eighth, one thousand nine hundred nineteen, known as  
3 senate bill number one hundred four, relating to the charter of  
4 the city of Buckhannon, and being chapter fifteen of the acts

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5 of one thousand nine hundred nineteen, relating to municipal  
6 charters, and all acts and parts of acts inconsistent with this act  
7 are hereby repealed.

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*[Signature]*  
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*[Signature]*  
Speaker of the House of Delegates.

*[Signature]*  
Clerk of the House of Delegates.

*[Signature]*  
President of the Senate.

*[Signature]*  
Clerk of the Senate.

The within is.....

this.....day of....., 1933.

.....  
Governor.

Filed in the office of the Secretary of State  
of West Virginia. **MAR 18 1933**  
Wm. S. O'BRIEN,  
Secretary of State